

Name/Address of Attorney or Pro Per

MARCO HERNANDEZ #70958-004

U.S. Penitentiary

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Lompoc, CA 93436-2706

Telephone ( )

☐ FPD ☐ Apptd ☐ CJA ☒ Pro Per**FILED**

JUL 18 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAUNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

PLAINTIFF(S),

v.

MARCO HERNANDEZ

DEFENDANT(S).

CASE NUMBER

CR 99-00102 MHP

Motion, Affidavit and Order re: Appeal In Forma

Pauperis: ☐ 28 U.S.C. 753(f)☒ 28 U.S.C. 1915

## MOTION AND AFFIDAVIT

The undersigned MARCO HERNANDEZ, a party in the within action, moves the Court under 28 USC § 1915 for authorization to prosecute an appeal without prepayment of fees and costs or security therefor, and for the preparation of a Court Reporter's transcript at government expense.

1. I believe I am entitled to redress, and the issues which I desire to present on my proposed appeal are the following:
  - a. Subject Matter Jurisdiction under Quo Warranto, Judicial Notice.
  - b. Constitutionally Ineffective Assistance of Counsel, Failure to Investigate
  - c. Indictment is Null and Void for Lack of Law and Implementing Regulation

2. Because of my poverty I am unable to pay the costs of the proposed appeal proceeding or to give security therefor. I swear that the following responses are true.

- a. Are you presently employed? No

If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

- b. Have you received, within the past twelve months, any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source? No.

If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.

(Continued on Page 2)

ORDER

(The check mark in the appropriate box indicates the Order made)



**THE COURT HAS CONSIDERED THE MOTION AND THE MOTION IS DENIED.** The Court certifies that the proposed appeal is not taken in good faith under 28 U.S.C. 1915(a) and is frivolous, without merit and does not present a substantial question within the meaning of 28 U.S.C. 753(f).

The Clerk is directed to serve copies of this Order, by United States mail, upon the parties appearing in this cause.

DATED: \_\_\_\_\_

*July 17, 2007*

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE



**THE COURT HAS CONSIDERED THE MOTION AND THE MOTION IS GRANTED.** It appears to the Court that the proposed appeal is taken in good faith within the meaning of 28 U.S.C. 1915(a). The Court certifies that the proposed appeal is not frivolous, that it presents a substantial question. The within moving party is authorized to prosecute an appeal in forma pauperis to the United States Court of Appeals for the Ninth Circuit without pre-payment of any fees or costs and without giving security therefor.



A transcript is needed to decide the issue presented by the proposed appeal, all within the meaning of 28 U.S.C. 753 (f). The Court Reporter is directed to prepare and file with the Clerk of this Court an original and one copy of a transcript of all proceedings had in this Court in this cause; the attorney for the appellant is advised that a copy of the transcript will be made available to him. The expense of such transcript shall be paid by the United States pursuant to 28 U.S.C. 1915(c) and 753(f).

The Clerk is directed to serve copies of this Order, by United States mail, upon the parties appearing in this cause.

DATED: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

USA

Plaintiff,

v.

MARCO HERNANDEZ,

Defendant.

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Case Number: CR99-00102 MHP

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 18, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Christopher James Steskal  
U.S. Attorney's Office  
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San Francisco, CA 94102

Marco Hernandez  
US Penitentiary #70958-004  
3901 Klein Blvd., "M" Unit  
Lompoc, CA 93434-2706

Dated: July 18, 2007

Richard W. Wieking, Clerk  
By: Anthony Bowser, Deputy Clerk